

### **REMARKS/ARGUMENTS**

These remarks are submitted in response to the Final Office Action of November 29, 2006 (Office Action). As this response is timely filed within the 3-month shortened statutory period, no fee is believed due. As a result of this Amendment, claims 1, 2, 6, 9, 10, 13-16, 20, 25, and 26 have been amended. Claims 1-26 remain in the Application.

In paragraph 3, page 2, of the Office Action, Claim 17 was rejected under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification. The Examiner is directed to FIG. 5 of the Applicant's Application and to paragraph 0029 and 0030 where the figure in particular shows the simultaneous display of a plurality of channel numbers (e.g., 1-25), artist names (e.g., Richard Marx, George Michael, Alabama), song titles (e.g., "Satisfied", "Don't Let the Sun..", "If it ain't Dixie"), channel names (e.g., 80s., 90s, America), categories (Decades, Country), and use percentages (e.g., 23.8, 27.6, 0.1). The description also states "Concurrently, selected data from the current user selected channel can be viewed on a larger viewing area 590. For example, channel number, channel name, and category. Other data can be selected or customized to be viewed in the viewing area 590 using the settings function 515 or preferences." Thus, the drawings and specification clearly support the previously amended claim language in Claim 17.

In paragraph 2, page 3 of the Office Action, Claims 13-15 were rejected under U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2005/0020223 to Ellis.

On page 4, paragraph 2 of the Office Action, Claims 1-6, 8-12, 16-18, and 20-26 were rejected under U.S.C. § 102(e) as being unpatentable by U.S. Patent Application Publication No. 2005/0020223 to Ellis and U.S. Patent No. 6,553,077 to Rindsberg.

In paragraph 3, page 9 of the Office Action, Claims 7 and 19 were rejected under U.S.C. § 102(e) as being unpatentable by U.S. Patent Application Publication No.

2005/0020223 to Ellis and U.S. Patent No. 6,553,077 to Rindsberg in view of U.S. Patent Application Publication No. 2004/0196179 to Turnbull.

Although the Ellis reference includes some of the elements claimed in Claims 13-15, Ellis still fails to teach, suggest, mention or contemplate a computer based multi-channel radio where a single radio receiver is used to receive a data stream when multiple channels are decoded from the data stream. Instead, Ellis teaches a multi-receiver system that can decode one channel per receiver, thus any system as taught by Ellis would necessarily include multiple receivers for receiving multiple sources of content. Ellis illustrates multiple channels that are decoded using multiple receivers or tuners or coming from different multiple sources as shown in FIGS. 27 and 42 and the corresponding text. In fact, the mention of satellite radio in Ellis is only in reference as a source receiver among a plurality of other source receivers and Ellis fails to discuss the decoding of multiple channels from a single data stream as claimed. Ellis instead teaches away from using a single receiver by stating that receivers or tuners are less costly than TV tuners and would be feasible to have multiple receivers (see Paragraph 0010 of Ellis). Furthermore, Ellis states that multiple radio receivers may be provided for a single radio source (See paragraph 0100 of Ellis).

Furthermore, with respect to the User Interface 365 of Ellis in FIG. 3C, this is not a graphic user interface (GUI), but merely a keyboard. The modem 350 of FIG. 3C is a modem for an internet connection and not a single radio receiver for receiving a single data stream having multiple channels as recited in claim 14.

With respect to Claims 1-6, 8-12, 16-18, and 20-26, the examiner asserted that such claims are unpatentable under U.S.C. § 102(e) in view of Ellis and Rindsberg. As previously noted in the prior office action response, Rindsberg is assigned to the same Applicant herein, namely XM Satellite Radio. As it appears that the Examiner is attempting to obviate such claims, but the Applicant again refers the Examiner to the following:

The MPEP section 706.02(I)(1) "Rejections Under 35 U.S.C. 102(e)/103; 35 U.S.C. 103(c):

35 U.S.C. 103 Conditions for patentability; non-obvious subject matter.

\*\*\*\*\*

(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Thus, since the current application is subject to an obligation of assignment to the same entity, it is believed that Rindsberg might be disqualified as prior art. Notwithstanding the applicability of section 103c, the previously noted distinction also provides a separate basis for overcoming the examiner's rejection.

Rindsberg is generally directed to a "favorites" feature for selection of music in a satellite radio system for example. Ellis is directed more towards a multi-receiver system (such as a multi-FM receiver system or a system that includes an FM receiver and a satellite receiver among a number of receivers). Ellis fails to discuss a single radio system that receives a single data stream where multiple channels are decoded therefrom. Furthermore, it would appear to be an improper use of hindsight for the examiner to cite a reference originally cited by the Applicant in an attempt to try to obviate a novel and non-obvious invention. The Applicant's system can further reduce costs by removing the need for multiple receivers as called for in Ellis.

With respect to amended claim 6 as well as claim 17, none of the references individually or in combination teach or even suggest, mention or contemplate a GUI that enables the simultaneous viewing of channels numbers, artist names, song titles, channel names, categories and use percentage. Use percentage is clearly not shown in any of the

references cited and the additional combination of information is clearly novel and non-obvious.

With respect to claim 8, the list of available FM stations fails to teach a broadcast information channel that provides a single channel that provides information for the plurality of channels (that comes from a single data stream). With respect to claims 9 and 10, these claims were amended to reiterate the differences already noted above, namely the use of the single data stream and a single receiver that provides multiple channels over the air as done with a satellite radio system as contemplated herein.

It should further be noted (with respect to claim 11) that the data streamed to the receiver as claimed herein and ultimately viewed on the user interface as claimed does not come from the Internet as shown in FIG. 3C, but from over-the-air. The connection to a global network connection is just an connection that can be used in conjunction with novel and non-obvious aspects recited in claim 1.

Claims 7 and 19 were rejected under U.S.C. § 102(e) as being unpatentable by Ellis and Rindsberg in view of Turnbull. As noted above with respect to claims 6 and 17, none of the references alone or in combination teach or suggest, mention, or contemplate a system that has a GUI that displays information associated with a plurality of channels that comes from a single receiver that extracts data associated from each channel from a single data stream and that further simultaneously updates and displays the associated data including the signal strength information as recited in claims 7 and 19. The inappropriate use of hindsight with respect to Rindsberg is further reiterated and the noted potential issue of common assignment or ownership of Rindsberg is likewise reiterated.

Finally, the Examiner should note that the amended language herein does not include new matter or subject matter that should require further examination and search since it merely clarifies the previously existing claim language. For example, claim language such as a "single" radio receiver is equivalent to "a radio receiver" as previously

claimed. Likewise, a single data stream is clearly implied by the prior claim language or found in prior depending claims and now explicitly recited in the amended claim language.

### **CONCLUSION**

Applicants believe that this application is now in full condition for allowance, which action is respectfully requested. Applicants request that the Examiner call the undersigned if clarification is needed on any matter within this Amendment, or if the Examiner believes a telephone interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,

Date: January 29, 2007

/Pablo Meles/

Pablo Meles, Registration No. 33,739  
AKERMAN SENTERFITT  
Customer No. 30448  
Post Office Box 3188  
West Palm Beach, FL 33402-3188  
Telephone: (954) 759-8959